

Application No.: 10/694,287
Amendment dated: October 25, 2005
Reply to Office Action of 6/27/2005
Attorney Docket No.: 21295.65(H5680US)

b) Amendments to Drawings:

Sheet 1 of 5 drawing sheets includes changes to Fig. 1. This sheet replaces the original sheet 1/5 including Fig. 1.

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c) Remarks

The remainder of this Reply is set forth under appropriate headings for the convenience of the Examiner.

Election/Restriction

The Office Action states that the traversal on the grounds that the two inventions are not independent of each other is not found persuasive because in Claim 1 "the medium filled in the cavity", whereas in Claim 14 "the sample is located in the cavity" indicating that "the cavity is empty of all material other than air and the sample".

Applicant acknowledges that the restriction requirement has been made final and that Claims 14-19 are withdrawn from further consideration.

It is respectfully noted, however, that in step three, Claim 14 explicitly recites "applying onto the sample region a medium that corresponds substantially to the refractive index of the coverslip being used".

Drawings

The drawings are objected to. The Office Action states that the box elements in Fig. 1 need to be labeled in accordance with 37 C.F.R. §1.83(a) and that formal drawings will be required when the application is allowed. Fig. 1 has been labeled in compliance to overcome the objection.

Rejection of Claims 1, 2, 4, 5 and 7-13

Claims 1, 2, 4, 5 and 7-13 are rejected under 35 U.S.C. §103(a) over Bewersdorf (U.S. Patent Application Publication No. 2002/0105722) in view of Eastman (U.S. Patent No. 6,411,434).

The Office Action states that Bewersdorf teaches a confocal microscope comprising first and second coverslips, with the second coverslip carrying a mirror surrounding the sample region but lacks reference to a cavity or frame. The Office Action also states that Eastman teaches use of a frame and a cavity between a first and

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second coverslin along with a medium filled in the center. The Office